SENATE BILL REPORT
SJM 8016

As of January 21, 2020

Brief Description: Concerning the federal harbor maintenance tax.

Sponsors: Senators Hasegawa, Mullet and Zeiger.

Brief History:
Committee Activity: Financial Institutions, Economic Development & Trade: 1/23/20.

Brief Summary of Joint Memorial

- Requests Congress to pass, and the President of the United States to sign, federal legislation reforming the Harbor Maintenance Tax.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, ECONOMIC DEVELOPMENT & TRADE

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Background: In 1986, Congress enacted the Harbor Maintenance Tax (HMT) to recover the operation and maintenance dredging costs for commercial ports from maritime shippers. The HMT Fund (HMTF) revenues come from a tax levied directly on importers and domestic shippers using coastal or inland ports. The tax rate is 0.125% of the value of cargo shipped or cruise tickets sold, representing $1.25 per $1,000 of cargo or cruise ticket value. The tax is generally assessed at coastal and Great Lakes ports. The HMT initially applied to both imported and exported goods though, in 1998, the U.S. Supreme Court unanimously held that imposition of the tax on exported goods was a violation of the U.S. Constitution. Under current law, unlike some other federal trust funds, the HMTF may be drawn on only with an appropriation by Congress. There is an estimated $9.3 billion currently in the trust fund.

Congress has chosen to make the U.S. Army Corps of Engineers (USACE) responsible for maintaining federal navigation channels. In the bill before Congress H.R. 2440, sponsored by Representative DeFazio from Oregon and developed by the American Association of Port Authorities, the USACE would be responsible for determining annually how much a port may be eligible to receive from the HMTF. That determination would be founded off two independent evaluations. The first is whether, on a national basis, the port is an "emerging harbor." Emerging harbors would receive 10 percent in total of the HMT revenues. The

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second evaluation would be to ensure each of six USACE geographic regions would receive 10 percent of the HMT dredging funds. The six regions are the North Atlantic, South Atlantic, North Pacific, South Pacific, Great Lakes, and Gulf of Mexico.

The bill would allow ports to access the revenue in the HMTF for port maintenance needs, including dredging without requiring an appropriation. This would result in permanent use of full annual HMT collections. Approximately $34 billion over the next decade would then be available to the USACE from the HMTF for maintaining federally-authorized harbors.

Summary of Joint Memorial: Congress is requested to pass, and the President to sign, legislation reforming the HMT.

The Joint Memorial also requests that the federal legislation ensure mandatory use of the HMTF revenues, including for harbor maintenance ports that traditionally have received only minimal benefit for the HMTF, mitigation of the cost disadvantage donor ports face relative to non-United States ports because of the HMT, and guarantees funding for the nation's smallest ports.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.